

RIGHTS OF CITIZENS OF THE UNITED STATES.

[To accompany bill H. R. No. 132.]

MARCH 28, 1850.

Mr. WOODWARD, from the Committee on Foreign Relations, made the following

REPORT:

*The Committee on Foreign Relations, to whom was referred "A bill to protect certain rights of the citizens of the United States," report:*

The bill provides that an instrument in writing, executed in the United States, or in a foreign country, to which a subject or citizen of such foreign country shall be a party, shall not take effect in the United States, if such instrument shall be executed at the instance of the diplomatic representative of such foreign country, from political motives, and with a view to affect injuriously the rights, interests, or privileges of a citizen of the United States.

If the bill should become a law, it will be seen that three conditions are necessary to bring any instrument in writing under its operation: First, the instrument must be procured by the diplomatic representative of the country to which one of the parties to the instrument belonged; secondly, such diplomatic representative must be actuated by political motives; and thirdly, his intention must be to affect injuriously some right, interest, or privilege of some American citizen. Each of these three conditions would present an issue of fact, to be established by competent and sufficient proof, and to be determined by a jury. It is almost certain that either one of these issues would, in every instance, involve the necessity of going to a foreign country for evidence, as each one would relate to the acts, motives, or objects of a foreign functionary. To say nothing of the difficulty of establishing any fact of which the proof has to be sought in a foreign country, through the instrumentality of persons commissioned to take such proof; and to say nothing of the difficulty of ascertaining and fixing the motives and objects by which an act may be prompted,—all must be struck with the great hazard of authorizing and providing for such litigations as would, in every instance, bring directly into question the conduct, motives, and objects of a foreign minister, and most probably, also, of the court he represented. The acts and policy of foreign states are affairs of state, and should be questioned and investigated only upon great considerations of state policy. To make such issues and investigation incidental to the daily transactions and litigations of men, would be to make the peace of nations to depend upon every individual commercial enterprise or speculation. It would be better to absolve all connexion with a foreign state and its people, than to attempt to maintain it on such terms. Even

the transactions among individuals at home must rest mainly upon the confidence they repose in each other's justice and integrity. The law is but a feeble support to this confidence. How much more should this be the case when contracting parties live in different countries, under different jurisdictions, each claiming, rightfully, equivalent authority; each, perhaps, entertaining different ideas of right and policy, and different rules and maxims of law and jurisprudence; and each, too, in a situation to judge very differently from the other of the facts and merits of any particular case of controversy. The citizen who voluntarily places himself under legal relations with people of a foreign country ought not to expect his government to follow him abroad with the same guaranties which it is able to extend to its people at home. His immunities would cost his government and his fellow-citizens too much. A degree of security and protection he has a right to expect; but it is believed that existing laws and treaties provide for as much as can reasonably be demanded.

The bill does not indicate what particular "rights, interests, or privileges" of American citizens are designed to be protected. It appears, indeed, to comprehend all of every kind. Nor does it distinguish between a case where they are directly and a case where they are remotely affected. And any bill that should attempt to make the proper definitions and distinctions in these respects would require a great variety of provisions. Great legal attainment and acumen, and much reflection, would be demanded in the preparation of a suitable bill.

The committee, therefore, have come to the conclusion that it would be inexpedient to legislate on the subject, and recommend that the bill do not pass.